

## Message Text

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SUBJ: UNCITRAL: WORKING GROUP ON SHIPPING - 7TH SESSION

1. WORKING GROUP HAS COMPLETED INITIAL DISCUSSION OF CONTENTS AND LEGAL EFFECT OF BILL OF LADING USING AS FRAMEWORK FOR DISCUSSION CHAPTER I OF PART ONE OF FOURTH REPORT OF SECRETARY GENERAL (A/CN.9/WG.III/WP.17 (VOL I)). ON BASIS WORKING GROUP DISCUSSION DRAFTING COMMITTEE HAS PROVISIONALLY APPROVED TEXTS ON DEFINITION AND CONTENTS OF BILL OF LADING SET OUT PARAS 2 AND 3.

2. BEGIN TEXT: DEFINITION OF BILL OF LADING. "BILL OF LADING" MEANS A DOCUMENT WHICH EVIDENCES A CONTRACT FOR THE CARRIAGE OF GOODS BY SEA AND THE TAKING OVER OR LOADING OF THE GOODS BY THE CARRIER, AND BY WHICH THE CARRIER UNDERTAKES TO DELIVER THE GOODS AGAINST SURRENDER OF THE DOCUMENT. A PROVISION IN THE DOCUMENT THAT THE GOODS ARE TO BE DELIVERED TO THE ORDER OF A NAMED PERSON, OR TO BEARER, CONSTITUTES SUCH AN UNDERTAKING.

3. CONTENT OF BILL OF LADING

1. THE BILL LADING SHALL SET FORTH:

(A) THE GENERAL NATURE OF THE GOODS, THE LEADING MARKS NECESSARY FOR IDENTIFICATION OF THE GOODS, THE NUMBER

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OF PACKAGES OR PIECES, AND THE WEIGHT OF THE GOODS OR THEIR

QUANTITY OTHERWISE EXPRESSED, ALL SUCH PARTICULARS AS FURNISHED BY THE SHIPPER; AND

(B) THE APPARENT CONDITION OF THE GOODS INCLUDING THEIR PACKAGING.

2. THE BILL OF LADING SHALL ALSO SET FORTH THE FOLLOWING PARTICULARS:

(A) THE NAME AND PRINCIPAL PLACE OF BUSINESS OF THE CARRIER;

(B) THE NAME OF THE SHIPPER;

(C) THE CONSIGNEE IF NAMED BY THE SHIPPER;

(E) THE PORT OF LOADING UNDER THE CONTRACT OF CARRIAGE AND THE DATE ON WHICH THE GOODS WERE TAKEN OVER BY THE CARRIER AT THE PORT OF LOADING;

(E) THE PORT OF DISCHARGE UNDER THE CONTRACT OF CARRIAGE;

(F) THE NUMBER OF ORIGINAL OF THE BILL OF LADING;

(G) THE PLACE OF ISSUANCE OF THE BILL OF LADING;

(H) THE SIGNATURE OF THE CARRIER OR OF A PERSON WORKING IN HIS BEHALF; THE SIGNATURE MAY BE PRINTED OR STAMPED IF THE LAW OF THE COUNTRY WHERE THE BILL OF LADING IS ISSUED SO PERMITS;

(I) THE FREIGHT TO THE EXTENT PAYABLE BY THE CONSIGNEE.

3. AFTER THE GOODS ARE LOADED ON BOARD, IF THE SHIPPER SO DEMANDS, THE CARRIER SHALL ISSUE TO THE SHIPPER A "SHIPPED" BILL OF LADING WHICH, IN ADDITION TO THE PARTICULARS REQUIRED UNDER PARAGRAPHS 1 AND 2, SHALL STATE THAT THE GOODS ARE ON BOARD A NAMED SHIP OR SHIPS, AND THE DATE OR DATES OF LOADING. IF THE CARRIER HAS PREVIOUSLY ISSUED TO THE SHIPPER A BILL OF LADING OR OTHER DOCUMENT OF TITLE WITH RESPECT TO ANY OF SUCH GOODS, ON REQUEST OF THE CARRIER THE SHIPPER SHALL SURRENDER SUCH DOCUMENT IN EXCHANGE FOR THE "SHIPPED" BILL OF LADING THE CARRIER MAY AMEND ANY PREVIOUSLY ISSUED DOCUMENT IN ORDER TO MEET THE SHIPPER'S DEMAND FOR A "SHIPPED" BILL OF LADING IF, AS AMENDED, SUCH DOCUMENT INCLUDES ALL THE INFORMATION REQUIRED TO BE CONTAINED IN A "SHIPPED" BILL OF LADING.

4. THE ABSENCE IN THE BILL OF LADING OF ONE OR MORE PARTICULARS REFERRED TO IN THIS ARTICLE SHALL NOT AFFECT THE VALIDITY OF THE BILL OF LADING. END TEXT  
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4. COMMENT: IN DISCUSSION OF CONTENTS OF BILL OF LADING USDEL ARGUED STRONGLY THAT SUBPARAS (A), (B), AND (C) OF PARA 3 OF ARTICLE III OF THE HAGUE RULES (SUBSTANCE OF WHICH ARE INCORPORATED IN PARA 1 OF NEW CONTENTS ARTICLE SET OUT ABOVE) SATISFACTORILY DEALT WITH MATTER AND THAT ADDITIONS TO LIST OF CONTENTS OF BILL OF LADING WERE UNDESIRABLE SINCE, PARTICULARLY IF MADE MANDATORY, THEY WERE LIKELY TO SLOW THE SUBSTANTIAL

PROGRESS ALREADY BEING MADE BY MODERN TECHNOLOGY TO THE SPEEDING UP OF INTERNATIONAL CARRIAGE OF GOODS BY SEA AND TO HINDER FURTHER DEVELOPMENT IN THIS DIRECTION THAT WOULD REQUIRE SIMPLIFICATION OF THE BILL OF LADING. ONLY JAPAN SQUARELY SUPPORTED US ON MAINTAINING CONTENTS PROVISIONS OF HAGUE RULES. MAJORITY IN EXCESS OF TWO-THIRDS OF PARTICIPANTS SAW THE EIGHT POINTS IN PARA 51 OF SECRETARIAT REPORT AS SMORGASBORD FROM WHICH TO SELECT ADDITIONAL ITEMS FOR INCLUSION IN BILL OF LADING DESPITE FACT (WHICH WE EMPHASIZED) THAT SECRETARIAT EXPRESSED DOUBTS IN PARA 52 OF REPORT THAT SUCH ITEMS SHOULD BE INCLUDED IN CONVENTION. DEVELOPING COUNTRIES ADDED SEVERAL NEW ITEMS TO LIST. ALTHOUGH OUR ARGUMENTS DID NOT SUCCEED IN PREVENTING INCLUSION OF ADDITIONAL ITEMS IN CONTENTS OF BILL OF LADING THEY PAVED WAY FOR ADOPTION OF RULE IN PARA 4 OF NEW CONTENTS ARTICLE THAT ABSENCE OF ONE OR MORE PARTICULARS SHALL NOT AFFECT THE VALIDITY OF THE BILL. END COMMENT

5. DRAFTING COMMITTEE CURRENTLY FORMULATING TEXTS ON RESERVATIONS IN BILL OF LADING AND THEIR EFFECTS. WORKING GROUP SCHEDULED TAKE UP QUESTION OF GUARANTEES OCTOBER 7. ABRAMS

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